

**Village of Brewster
Planning Board Meeting Minutes
March 16, 2021**

BOARD MEMBERS:

Rick Lowell, Chairman
Janet Ward, Vice Chairperson
David Kulo
Marti Foster
Katy New

PROFESSIONAL ADVISORS:

Greg Folchetti, Attorney - Costello & Folchetti
Todd Atkinson, PE – J.R. Folchetti & Associates
George Gaspar, Village Trustee Liaison to Planning Board

Chairman Lowell led the Board in the Pledge of Allegiance, whereupon the proceedings were called to order at 7:30pm.

REGULAR MEETING:

Chairman Lowell made a motion to open the regular meeting. This was seconded by Boardmember Kulo and passed unanimously.

V&R Route 22 LLC, 861-869 Route 22:

Robert Cinque, attorney, as well as Anthony Congello and Ed Gemmola of Gemmola & Associates appeared before the Board representing this application.

Mr. Folchetti said the law was amended to allow the Special Exception Use Permit (SEUP) for these purposes in the B2 Zone. The applicant went to the Board of Trustees, was approved for this Special Exception Use Permit for this project, and now it comes to the Planning Board for Site Plan Review. He said there is a memorandum from Mr. Atkinson that he will review. The SEUP is only for the Use, he said, and the Board has the opportunity to do a full site plan review or waive any portion of that which the Board deems appropriate as has been done in other circumstances when the Board thought it was appropriate to waive or partially waive the review. He said the Board needs a complete submission for review and at that point a determination can be made regarding any waivers.

Mr. Atkinson said we need to verify that the actual parking that is provided onsite meets the actual parking requirements for the Village Code. We are looking for a survey, he said, as well as a Site Plan demonstrating that the parking requirements are met and the setback requirements as well.

Mr. Congello said we submitted a survey but there is really no site plan because we're not doing anything to the site. He said there were multiple submissions because they kept going back and forth to the Board of Trustees. Mr. Atkinson said one of the requirements when you submit for this approval at the Planning Board is an actual Site Plan submission although they can waive some aspects of that. The only concern I

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have with this project is..., said Mr. Atkinson, I do not believe you are going to be doing any land disturbance. Mr. Congello said that's correct. OK, Mr. Atkinson said, so my concern is that we meet, based on the new uses that are approved on the site, that we meet the actual parking requirements and the loading requirements based on that. He said you already have an existing commercial property there and the office space that was previously approved is now being changed to residential so based on the square footage, the calculations to prove that what you have in parking still meets the requirements. He said the Board can ask for a different way of proving that. He said did the survey show the actual parking spots as well. Mr. Congello said I believe it did and normally when you go from commercial to residential, it is always more in commercial parking spaces as opposed to residential because they only require 1-1/2 to 2-1/2 spots per unit. Chairman Lowell said I don't recall seeing a survey, but I think based on the nature of the property with the three buildings so near to each other and no one really knowing what parking spaces belong to what building, we would like to see that area that you are assigning to this building. Mr. Atkinson said have your architect take your survey you currently have and off to the side of it put it onto another plan and call it a Site Plan and fill out the parking calculation on it to show the number of parking spots and say what goes to commercial and what goes to which residential space.

Boardmember Ward said there was a survey in the packet I received and I have comments. She said we do need to know how many parking spaces are being allocated to the apartments because there are spaces indicated but not for what. She said this survey was originally done August 4, 1992, updated November 25, 2011, and updated January 14, 2019. She said it is dated with a stamp received December 24, 2020. Mr. Congello said that's the most recent survey. She said this shows the building, the setbacks from the street with a 15 ft. restriction line, shows the right-of-way but in the survey notes there are several notes. Particularly 2, 3: it says this survey has discrepancies, she said, and that these should be corrected. Survey note #2: "due to the overlap created by the recorded descriptions in the 1986 it is suggested that this boundary be fixed by a recorded boundary line agreement with an appropriate quitclaim element." Same thing with #3, she said, which is with the Village of Brewster property. Boardmember Ward said #4 is the 15 ft. setback from the restriction so that's noted on the survey. She said #5 says "subject to the rights of the State of New York, full width of the right-of-way" so there are several easements in here. She said survey note #7 is talking about the Hoersgen and they have a right to pass although it looks like that was resolved by the Supreme Court decision, but the gas line says that it's not plotted. She said the approximate location of the sewer line is also not plotted and I would think that those would be things that we would want on the survey if we're changing the use of this building. Resolving these boundaries descriptions, she said, especially with the Village of Brewster property. The boundaries would then affect the setbacks, she said, because the Special Exception Use law says you can't be higher than 40 ft., you have to be 40000 sq. ft., you're front setback is 25 ft., you're side yard setback is 0, and all other requirements of the B2 District shall applies. Boardmember Ward said does the

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maximum lot coverage of 50%; this whole lot is either blacktop or building so how does that apply. Mr. Atkinson said it does not include the asphalt, just the structures.

Boardmember Ward said the construction schedule looked like the construction started already, so what is our function. She said my thought is we would want a Site Plan Approval. She said we got a SEQRA form but I don't think the form is filled out correctly because in part B there are Agency approvals that are needed. She said does New York City have any approval because that river feeds the reservoir. Mr. Congello said we're not touching the outside of the building. Boardmember Ward said looking at the SEQRA form, it has Section C: will administrative or legislative adoption or amendment of a local law or regulation; will that be the only approval that must be granted. She said no, that isn't the only one because the Special Exception Use isn't the only one; otherwise why is it coming to the Planning Board. If that's the case then the SEQRA needs to be filled out, she said, and you have answer no to C1, which means you have to fill out the rest of the form. She said you get to D1F: does the project include new residential uses: yes. To me that is why a SEQRA form would need to be filled out, she said.

Mr. Atkinson said the couple of items Boardmember Ward brought up with the SEQRA, I agree with you on a majority although the one that probably doesn't come into play is the DEP since there is no outside disturbance proposed but we can look into that and verify it. Boardmember Ward said there's a lot more like water usage and you are having people living there now as opposed to a commercial use so to me that changes the use of the water or the parking or the runoff or something. Boardmember Kulo said I would agree with you in many ways and I don't understand why so much of this has been left blank.

Boardmember Ward said if the only thing the Planning Board has to review is the amount of parking spaces then most of this wouldn't apply because the survey, I think, would clearly show...there seems to be plenty of parking is my guess because it's on three sides of the building. She said we just don't know what parking spaces apply to what residential pieces. Mr. Cinque said I will note that even though there is a change in the use going from commercial to residential, they're still going to be hooked up to the sewer and water system so I don't think that is going to have any impact whatsoever that would involve the Watershed or any DEP issues. Boardmember Kulo said I don't understand why you wouldn't indicate on this; why were they omitted. Mr. Congello said I would have to speak to the engineer because he's the one that filled it out.

Mr. Folchetti said first, the referral to this Board requires a Site Plan submission to your satisfaction and whether you decide to undertake a full review is the next step after you receive whatever your design criteria are for the base Site Plan application are. He said with respect to the EAF, if it's not complete it can be completed. Mr. Folchetti asked what the floor area of the building is. Mr. Congello said 9400 total. Mr. Folchetti said there are a couple of exceptions for Type II and SEQRA: obviously if it's less than 4000 sq. ft. and also replace and rehabilitation or reconstruction of a structure of facility in

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kind on the same site is basically a Type II. If they are not changing the footprint or expanding it, he said, but that doesn't mean that the EAF shouldn't be completed. Mr. Folchetti said with respect to the City, that's a disturbance measure. He said if there is no site disturbance they don't get involved.

Mr. Atkinson said I think that we need a site plan but it can be minimal based on what the Board recommends, but I think that we need to show how the parking calculation is made and I think we need to show a bulk zoning table on the site plan that shows that all the setbacks and the existing and proposed area requirements on that property are being met. He said with the Board's approval I will meet with the applicant to inform him of what is needed in order to get on the next meeting's agenda.

Boardmember Foster said on the floor plan there are a couple of places that are marked "no access." Mr. Congello said they are a lower ceiling on the ends of the back walls. He said you cannot get to it on one side, but there is a small door you can go in and there is storage back there. He said the attic is going to be a three-bedroom apartment. Boardmember Ward said you have attic access on your proposed third floor. Mr. Congello said I will have the change that as there was an HVAC system that was being stored in this area.

Boardmember Ward said has construction begun. Mr. Congello said we did some demolition but stopped because we wanted to make sure we could get everything approved before going forward.

Chairman Lowell said this is the creation of residential space so would they be subject to the provision of providing money in lieu of square footage. Mr. Folchetti said in terms of recreation fees I would have to look at the Code. Mr. Atkinson said I believe they would have to as it is the creation of dwelling units, but that can be something put into the resolution.

The Board will await a formalized submission from the applicant in order to proceed.

28 EASTVIEW AVE SUBDIVISION:

Chris DeBellis of DeBellis Construction and Brian Stokosa appeared before the Board representing this application.

Chairman Lowell said you have given us a previous conception of the project and you have gone from two houses to three; is that going to be the final revision here. Mr. DeBellis said that's correct. He said I sent it because I thought it would be helpful since we keep referring to what Bob Marini proposed all those years ago.

Mr. DeBellis said I met with Mr. Atkinson and the Village Highway Superintendent to talk about the cul-de-sac and that's when I realized it would be better for me to go from two to three houses to offset the cost of the road, the infrastructure, and sidewalk etc.

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Chairman Lowell said the cul-de-sac looks more like an arc now; will that be something that will be easy for the Village to work with as far as trucks turning around and snowplows. Mr. Atkinson said myself, Dom, Chris, and Chris' engineer Brian all met in my office approximately 10 days ago and Dom was concerned about the creation of the cul-de-sac and potentially the amount of land disturbance it would create as well as maintenance issues it would create if the Village intends to potentially take that on. He said that Dom recommended going to the hammerhead and provided the engineer with the dimensions that he is looking for based on plow trucks that they currently use in that area. This would actually make it easier for the Village to plow, he said. Mr. Atkinson said based on the fact that Chris would have to provide sidewalk and the hammerhead that three houses would actually have less of an impact than the cul-de-sac and two houses.

Chairman Lowell said there were questions about the EAF and such last time. Mr. Atkinson said I think that those are going to change based on whatever layout is used so I think tonight is to get the Planning Board's opinion on which course of action they would like to see the applicant move forward with. Mr. Folchetti said before he puts in an actual submission with all the things that address the comments, he should have an idea of what the Board's preference is to try to minimize any waste of time on the project.

Boardmember Foster said when the houses are built, do you see them all looking the same. Mr. DeBellis said I would keep them similar and matching that area of the Village. Boardmember Foster said I'm worried about the houses being too close together; will there be something separating them like hedges or something. Mr. DeBellis said there will definitely be some landscaping to give them some privacy. Boardmember Foster said Todd, where do you see the snow being put when it is plowed. Mr. Atkinson said in the middle of the arc and then each side of the arc. He said with regard to runoff, in the middle of that center arc it would be good to have a swale going down the middle of it so that the snow goes down the middle of the two houses and out and around, but that is all stuff that can be worked out.

Chairman Lowell said I noticed the property lines had been changed amongst the three houses; will the remaining area be deeded over to the Village or Town or someone to make sure that no one can come in there in the future and build anything else. Mr. DeBellis said I think we are looking to deed the property that has road frontage on Prospect Street so that no one can come back to further subdivide. Mr. Atkinson said the 50 ft. that is on Prospect Street, which is to the far right of the plan, a piece of that is used for the road frontage calculation for lot 3 and this eliminates the ability to further subdivide lot 3. This lot will have easements and inadequate road frontage to be able to create another lot as per the Code, he said. Chairman Lowell said would it be better to deed it to the Village so that it remains open space. Mr. Atkinson said there is an easement that goes down to the pump station off the back of 22 Eastview and if that easement is included that will locked out that property. Mr. Folchetti said you can make a condition on the Final Subdivision that says no further re-subdivision.

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Boardmember Kulo said would a homeowner be willing to have all this property that is useless to them; I'm just going by recall but I believe there was some open space or accommodation where some of this acreage would not be owned by the subdivision owners. He said is there any way of dedicating the rest of this site that is incorporated with lot 3 so that the homeowner doesn't actually own that. Chairman Lowell said that is an important observation because the homeowner is going to get stuck with all that property tax. Mr. Atkinson said if you notice Town of Southeast is an abutting property owner, which is Wells Park, so there is the potential that this could be discussed down the road.

Boardmember Ward said this takes away the parking from 22 Eastview and it looks like the property line really doesn't give any, so does parking for this parcel need to be included in the plan. Mr. DeBellis said we planned to put parking to the right of the house by removing the shed. He said there are plans in with the Building Department to renovate the house. Mr. Stokosa said the intention is to provide some parking there. He said what we tried to do before moving forward with a hard analysis and SWPPP we wanted to get an idea of the Planning Board's version, but there are plans for parking. He said the intention is to have a snow storage area near the cul-de-sac area between lots 2 and 3 with a bioretention swale in that area. We are going to look at some subsurface drainage near the hammerhead area, he said, to reduce overall disturbance to that area.

The Board discussed the process for this application including subdivision and site plan approvals. A public hearing was suggested to be done for preliminary and final with the subdivision and site plan done in tandem. The SWPPP would be involved as per Mr. Atkinson and that would be reviewed by his office.

Chairman Lowell said tonight we need to determine whether we think this 3-lot plan is tenable and that is the only thing we are moving on tonight. Boardmember New said I have not seen what it looks like it. Mr. Stokosa shared his screen and explained the plans. He said there will be stormwater control between lots 2 and 3 as well as up by the cul-de-sac with a retention area there. The dotted lines around the houses, he said, is the building envelope where the disturbance will be.

The Board discussed water runoff and how it will be handled. Mr. Atkinson said for a majority of the stormwater for this site it will be pushed into the ground and recharge the ground with it so it is not running off to the back of the property or off the property to the north. He said there is a Cultec on the hammerhead as well as the roof water on all three properties as well as a swale between the two driveways on lots two and three which will take all of the runoff from the driveway and push that into the ground as well. He said there will be an overflow on each of those items that will discharge off to a point or level spreader to ensure the downstream area will not be flooded.

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The Board had positive comments and remarks for the applicant and look to see future submission on this project.

The minutes of the January 19, 2021 meeting were discussed. The motion to approve the September 15, 2020 minutes was introduced by Boardmember Foster, seconded by Boardmember Kulo and passed all in favor.

The minutes of the February 16, 2021 meeting were held over the April meeting.

NEW BUSINESS:

Boardmember New said when we had gone there and talked to the applicant at 85 Main Street, he had mentioned keeping the columns and façade the same and they are gone. She said what is our role in this case; do we have any input on it or is it something they just decided the change. She said part of my interest in that application was that they were going to keep the look similar to the rest of the buildings on Main Street. Mr. Atkinson said I completely agree with you and put a call into the Building Inspector and will be discussing it with them. He said I think they actually built more living space over the top of the awning going over the deck and moved closer to the front property line. There might actually be some zoning issues, he said, as it is not in line with what was discussed with this Board. Mr. Folchetti said it is a compliance issue; do they have a site plan approval. Mr. Atkinson said no. Mr. Folchetti said if they are not in compliance with the permit, they can be violated for that. He said if they have modified the structure so that now it creates an encroachment and zoning issue, they can be violated for that and sent to zoning, but it is a zoning enforcement issue and that's going to be the Building Department. Boardmember New said it is just disappointing; I was looking forward to seeing that façade updated as opposed to completely changed. Chairman Lowell said the Village Board, Boardmember New and myself did a site visit to see if a site plan would be required and it was determined that it would not be because they were not changing the footprint. They were supposed to be restoring it, Chairman Lowell said. Mr. Atkinson said they started without a building permit and were violated. He said they were sent to the Planning Board and it was determined they could move forward because they were doing modifications within the structure that didn't require a site plan and it now does not look like what was discussed while we were out there that day. He said I do believe they need some front yard variances now for what they have done.

Vouchers were discussed and the timeliness of turning them in to the Village Clerk.

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Boardmember Foster said he had a concern about the posting of the minutes on the Village website. Ms. Chiudina said I discussed it with the Village Clerk and she will let me know what ones she needs and will update the website.

Boardmember Ward made a Motion to adjourn the meeting, seconded by Boardmember Kulo, and passed all in favor.